

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

CAREER COLLEGES & SCHOOLS
OF TEXAS,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
EDUCATION; MIGUEL CARDONA,
in his official capacity as the Secretary
of Education,

Defendants.

Case No. 1:23-cv-00433-RP

**PLAINTIFF’S OPPOSITION TO PROPOSED AMICI’S
MOTION FOR LEAVE TO FILE BRIEF IN SUPPORT OF DEFENDANTS**

Plaintiff respectfully asks that the Court deny the pending motion (ECF No. 58) of Public Citizen and Project on Predatory Student Lending (“Proposed Amici”) for leave to file an amici brief opposing Plaintiff’s motion for preliminary injunction. While Plaintiff would not oppose Proposed Amici’s participation at a later juncture, granting their motion at this time would deny Plaintiff an adequate opportunity to respond to the new arguments raised in their 19-page brief.

I. The case for Proposed Amici’s participation is weak.

Amicus participation in district courts is relatively uncommon; indeed, this district’s local rules do not even contemplate it. Even more extraordinary is amicus participation in a preliminary-injunction motion—especially when the motion seeks only to preserve the status quo. Proposed Amici would have a weak case for participation even at a later, non-preliminary stage. A fortiori, the case for participation at this preliminary stage is even weaker.

First, unless the parties consent, “acceptance of an . . . amicus curiae should be allowed only sparingly, unless the amicus has a special interest, or unless the Court feels that existing counsel need assistance.” *Evanston Ins. Co. v. Rodriguez Eng’g Lab’ys*, No. 1:21-CV-01129-RP, 2023 WL 379277, at *1 (W.D. Tex. Jan. 20, 2023) (citation omitted). Proposed Amici have not identified a special interest in this case, nor are Defendants’ able counsel in need of assistance.

Second, “a district court should consider whether the information offered through the amicus brief is ‘timely and useful’ or otherwise necessary.” *Id.* Proposed Amici’s motion is not timely, as it comes only five days before Plaintiff must file its reply brief. Nor are their arguments necessary to the resolution of Plaintiff’s preliminary-injunction motion.

II. Granting the motion at this stage would prejudice Plaintiff.

Local Rule CV-7 gives Plaintiff seven days to reply both to Defendants’ 40-page opposition (ECF No. 56) and to Defendants’ motion to exclude the declaration of Plaintiff’s expert (ECF No. 55). *See also* Text Order of Apr. 25, 2023 (Plaintiff’s reply brief is due May 22, 2023, seven days after Defendants’ opposition). With five days (three business days) remaining, Proposed Amici request leave to file a 19-page brief that makes several arguments not contained in Defendants’ opposition. Plaintiff cannot adequately address these new arguments in its reply brief, which is limited to 25 pages (*see* Text Order of May 17, 2023), in the short time remaining. Plaintiff would not object to Proposed Amici’s participation during the final merits stage, when their novel arguments can be litigated fully and fairly. Plaintiff plans to file a motion for summary judgment following the preliminary-injunction hearing and would be amenable to an expedited briefing schedule that allows the Court to consider the views of amici, and the parties’ responses to those views, as soon as reasonably possible.

III. Conclusion

For the foregoing reasons, Plaintiff respectfully asks that the Court deny Proposed Amici's motion for leave.

Dated: May 17, 2023

Respectfully submitted,

/s/ Allyson B. Baker
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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on all counsel of record via the Court's CM/ECF system on May 17, 2023.

/s/ Allyson B. Baker
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